THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5811 of 2007

22.3.2007

Between:

Mir Sajjad Ali Khan, S/o.late Mir Liaqat Ali Khan
And others

… Petitioners

AND

The Special Officer and Competent Authority,
Urban Land Ceiling, Red Hills, Hyderabad
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5811 of 2007

ORDER:

The petitioners filed the present writ petition assailing the proceedings dated 16.12.2005 passed by the first respondent as illegal, arbitrary and violative of fundamental rights of the petitioners.

The short fact of the matter is as follows. Mir Liaqat Ali Khan, father of petitioners 1, 2 and 4, allegedly purchased plot No.6 admeasuring Acs.2.00 in survey No.58 situated at Bahaloolkhan Guda village of Amirpet Mandal (presently Erragadda) under a registered sale deed dated 23rd Abad 1342 Fasli. The same was leased out to Royal Air Force and subsequently allegedly leased out to the third respondent herein under an oral lease. They also allege that the land is now a subject matter of O.S.No.2787 of 1999 on the file of the Court of IX Junior Civil Judge, City Civil Court, Hyderabad. The suit was dismissed on 29.9.2006 and the petitioners preferred appeal, which is pending. After coming into force of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), the petitioners filed declarations under Section 6(1) of the Act in response to the communications sent by third respondent. They also allege that after conducting enquiry into the declarations, the first respondent issued orders under Section 8(1) of the Act declaring the petitioners as surplus landholders to the extent of 1697 Sq.mts. After receiving the draft statements under Section 8(1) of the Act, the petitioners filed objections. While the enquiry was pending, the fourth respondent addressed a letter to the first respondent. Based on the same, the first respondent issued the impugned proceedings dated 16.12.2005 purporting to be the final orders under Section 8(4) of the Act to the effect that as per Town Survey Land Register (TSLR), the land in

survey No.58 (old) correlated to revision survey No.127 correspondent to present T.S.No.1 of Block B, Ward No.3, is classified as Government poramboke and, therefore, the petitioners are declared as no title holders of the property. Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioners submits that the first respondent did not conduct any independent enquiry nor looked into the record and issued the impugned order only based on the communication from the fourth respondent. Secondly he would urge that the suit filed by the petitioners in respect of the subject property was dismissed and the appeal is pending and, therefore, the first respondent ought not to have passed any order. **Opposing** the writ petition learned Assistant Government Pleader for Revenue (General-T) submits that the writ petition is filed with delay of about one year four months and that the petitioners have not availed alternative remedy under Section 33 of the Act. Secondly he submits that under Section 19 of the Act, the Act has no application to the vacant land held by the State Government and, therefore, the impugned order does not suffer from any invalidity.

The petitioners have not explained delay in approaching this Court nor the reasons for not availing alternative remedy. The details of the suit filed by them are also not forthcoming. It is not clear whether the suit was filed for declaration of title or for perpetual injunction. Be that as it is, when the fourth respondent informed the first respondent that the land in survey No.58 is Government land and requested the first respondent to close the matter, there is nothing wrong on the part of the first respondent in closing the matter under the Act. That was what was precisely done. As per Section 19(1) of the Act, the vacant land held by the Central Government or any State Government is not regulated by the provisions of the Act. Therefore, this Court does not find any infirmity in the impugned order. If the petitioners claim title, the remedy is to seek declaration before the civil court. Liberty is also reserved to the petitioners to prefer an appeal before the Commissioner, Urban Land Ceiling. In such an event – needless to mention – the petitioners have necessarily to seek appropriate orders for condoning the delay in filing the appeal.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

March 22, 2007.
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